

**IN THE DISTRICT COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. CROIX**

CLIFFORD BOYNES, et al.,

Plaintiffs,

v.

LIMETREE BAY VENTURES, LLC, et al.,

Defendants.

Civil Action No. 2021-0253

HELEN SHIRLEY, et al.,

Plaintiffs,

v.

LIMETREE BAY VENTURES, LLC, et al.,

Defendants.

Civil Action No. 2021-0259

MARY L. MOOREHEAD, et al.,

Plaintiffs,

v.

LIMETREE BAY VENTURES, LLC, et al.,

Defendants.

Civil Action No. 2021-0260

BEECHER COTTON, et al.,

Plaintiffs,

v.

LIMETREE BAY VENTURES, LLC, et al.,

Defendants.

Civil Action No. 2021-0261

**PLAINTIFFS' MOTION TO COMPEL PORT HAMILTON REFINING
AND TRANSPORTATION, LLP TO COMPLY WITH SUBPOENA**

COME NOW, Plaintiffs, by and through undersigned counsel, and respectfully move this Court for an order compelling Port Hamilton Refining and Transportation, LLP ("Port Hamilton") to comply with Plaintiffs' subpoena issued pursuant to Federal Rule of Civil Procedure 45. In support of this Motion, Plaintiffs state as follows:

1. On or about August 29, 2024, Plaintiffs gave notice to all parties of their intent to serve a subpoena on non-party Port Hamilton. *See Exhibit 1.*

2. The subpoena seeks the production of documents and electronically stored information necessary for Plaintiffs' case. *See Exhibit 2.*

3. The subpoena requests documents and communications directly relevant to the claims and defenses in this litigation, including but not limited to documents concerning:

a. Agreements and communications between Port Hamilton and the Limetree Defendants or Contractor Defendants regarding the Limetree Bay Refinery (Requests Nos. 1–4);

b. Port Hamilton's acquisition of the former Limetree Bay Refinery, including diligence materials and condition assessments (Requests Nos. 5–9);

c. Evidence of mismanagement or operational deficiencies at the Limetree Bay Refinery (Requests Nos. 12–14); and

d. Port Hamilton's environmental compliance efforts and remediation plans (Requests Nos. 14–15).

4. On September 3, 2024, Plaintiffs served their subpoena on Port Hamilton through its registered agent. *See Exhibit 3.*

5. Despite proper service and the passage of the compliance deadline, Port Hamilton has failed to respond or produce any documents responsive to the subpoena.

6. While Rule 37.1 does not apply Rule 45 motions, Plaintiffs nevertheless made substantial efforts to resolve this matter without Court intervention. In addition to several phone calls to Port Hamilton's legal counsel, Plaintiffs on November 26, 2024, sent a Port Hamilton's counsel a formal letter to Port Hamilton requesting a formal meet-and-confer to address the outstanding subpoena and avoid the need for judicial intervention. Plaintiffs asked for Port Hamilton's response by November 30, 2024, and offered to meet and confer any time on December 10 or 13, 2024. *See Exhibit 4*. Despite the phone calls and written correspondences, Port Hamilton has neither responded to the subpoena nor Port Hamilton ever provided a timeline for when it may respond or produce responsive documents.

7. Rule permits a party serving a subpoena to move the court for an order compelling compliance when a recipient fails to respond or objects to the subpoena. *See Fed. R. Civ. P. 45(d)(2)(B)(i)*.

8. The documents that Plaintiffs have requested are highly relevant to Plaintiffs' claims regarding the catastrophic environmental and operational failures at the Limetree Bay Refinery, as well as the conduct and knowledge of the Defendants.

9. Any objections Port Hamilton might have enjoyed are waived because it failed to timely object. *See Fed. R. Civ. P. 45(d)(2)(B)*.

10. Port Hamilton's failure to comply with the subpoena prejudices Plaintiffs by depriving them of critical evidence needed to prosecute their claims.

WHEREFORE, Plaintiffs respectfully request that this Court enter an order:

a. Compelling Port Hamilton to produce all documents and information responsive to Plaintiffs' subpoena without objection within fourteen (14) days of the Court's order;

- b. Requiring Port Hamilton to pay Plaintiffs' reasonable expenses, including attorney's fees, incurred in bringing this motion, whether by way of L.R. 37.3 or otherwise; and
- c. Granting such other and further relief as the Court deems just and proper.

Respectfully submitted,

DATED: December 18, 2024

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CERTIFICATE OF SERVICE

I hereby certify that I filed the foregoing with the Court's ECF system on December 18, 2024, which sent notice to all counsel of record. I further certify that the foregoing will serve non-party Port Hamilton Refining & Transportation, LLP, by mail to its agent for service of process. *See* Fed. R. Civ. P. 5(b)(2)(C).

s/ C. Jacob Gower _____

CERTIFICATE OF ATTEMPT TO MEET-AND-CONFER

If Local Rule 37.1 applies to Rule 45 motions to compel, I hereby certify that Plaintiffs sent a letter on November 26, 2024 to counsel to non-party Port Hamilton Refining & Transportation, LLP, asking to meet-and-confer. Plaintiffs did not receive a response. I also had several phone calls with its legal counsel, including a call on December 6, 2024, about the meet-and-confer request. Plaintiffs did not receive a commitment from Port Hamilton that it would participate in a pre-motion conference.

s/ C. Jacob Gower _____